

**REMARKS**

Applicant appreciates the Examiner's thorough consideration provided the present application. Claims 1-10 are now present in the application. Claim 1 has been amended. Claim 1 is independent. Reconsideration of this application, as amended, is respectfully requested.

**Claim Rejections Under 35 U.S.C. § 101**

Claims 1-10 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. This rejection is respectfully traversed.

In view of the foregoing amendments, it is respectfully submitted that this rejection has been addressed. MPEP 2106. IV.C.2 states as follows:

A claimed invention is directed to a practical application of a 35 U.S.C. §101 judicial exception when it:

- (A) "transforms" an article or physical object to a different state or thing; or
- (B) otherwise produces a useful, concrete and tangible result, based on the factors discussed below.

Here, claims 1-10 are directed to at least one practical application within the technological arts, *i.e., image process* to produce a useful, concrete and tangible result, *i.e., elimination of the red eye in a digital image*.

In addition, a data transformation is performed in the claimed invention. In particular, the image data have been input and then transformed to a different state; *i.e., the image data have been transformed by detecting and filling up the red color pixels with a predetermined color, thereby eliminating of the red eye in a digital image*.

In view of the above, since claims 1-10 are directed to at least one practical application of a 35 U.S.C. §101 judicial exception, it is believed that claims 1-10 are directed to statutory

subject matter. Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C. § 101 are respectfully requested.

### **Claim Rejections Under 35 U.S.C. § 102**

Claims 1 stands rejected under 35 U.S.C. § 102(e) as being anticipated by Chen, U.S. Patent No. 6,920,237. This rejection is respectfully traversed.

Independent claim 1 recites a combination of steps including “detecting a skin color area in an image; picking up all boundaries within the detected skin color area; detecting one boundary within the skin color area that matches with an eyelid quadratic curve to determine an eyelid area; detecting red color pixels in the eyelid area; and filling up the detected red color pixels with a predetermined color, thereby eliminating the red eye in the image.” Applicant respectfully submits that the above combination of steps as set forth in amended independent claim 1 is not disclosed nor suggested by the reference relied on by the Examiner.

The Examiner alleged that Chen in col. 4, lines 36-38 discloses “picking up all boundaries within the detected skin color area” as recited in claim 1. Applicant respectfully disagrees. In particular, Chen simply discloses defining the boundaries of skin color region. However, the claimed invention is not to define the boundaries of the detected skin color area, but to pick up all boundaries within the detected skin color area, which are the boundaries of the eyelid. Therefore, Chen fails to teach “picking up all boundaries within the detected skin color area” as recited in claim 1.

In addition, the Examiner alleged that Chen in col. 7, lines 37-44 and Fig. 2 discloses “detecting one boundary within the skin color area that matches with an eyelid quadratic curve to

determine an eyelid area” as recited in claim 1. Again, Applicant respectfully disagrees. As shown in FIG. 2 of Chen, Chen’s method is to detect the oval region, not the eyelid area as recited in claim 1. Therefore, Chen also fails to teach “detecting one boundary within the skin color area that matches with an eyelid quadratic curve to determine an eyelid area” as recited in claim 1.

Since Chen fails to teach each and every limitation of independent claim 1, Applicant respectfully submits that claim 1 and its dependent claims clearly define over the teachings of Chen. Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C. § 102 are respectfully requested.

### **CONCLUSION**

Since the remaining patents cited by the Examiner have not been utilized to reject the claims, but merely to show the state of the prior art, no further comments are necessary with respect thereto.

It is believed that a full and complete response has been made to the Office Action, and that as such, the Examiner is respectfully requested to send the application to Issue.

In the event there are any matters remaining in this application, the Examiner is invited to contact Joe McKinney Muncy, Registration No. 32,334 at (703) 205-8000 in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Dated: July 3, 2007

Respectfully submitted,

By 

Joe McKinney Muncy

Registration No.: 32,334

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant

